16

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 12, 2002 ("Office Action"). At the time of the Office Action, Claims 1-61 were pending in this patent application. The Office Action rejected Claims 1-61 and objected to Claims 3, 5, 11, 18, 26, 33, 41, 48 and 61. In order to advance prosecution of this Application, Applicants have amended Claims 3, 5, 11, 18, 26, 33, 41, 48 and 61. Applicants respectfully request reconsideration and favorable action in this case.

Specification

The Related Application paragraph of the Specification has been amended to insert the serial number of co-pending application Serial No. 09/703,385 and to correct a typographical error in the attorney's docket number.

Claim Objections

Claims 3, 5, 11, 18, 26, 33, 41, 48 and 61 were objected to because of informalities. Claim 3 is amended to make clear that the term "substantially immediately" indicates that in the message the "real-time packets generated subsequent to the delay" follow substantially immediately the "real-time packets generated prior to the delay". Claims 11, 18, 26, 33, 41, 48 and 61 are similarly amended with the tense of the term "follow" also amended in Claim 48. Applicants submit that these amendments do not narrow the scope of the claims. Rather, the amendments make clearer that which was previously expressed by the claims.

Claim 5 is amended to correct a typographical error with antecedent basis for the term "the time amount less than the delay" being provided by Claim 1. Applicants respectfully submit that Claim 5 is not narrowed by the amendment. Applicants also respectfully request that the objections to the claims now be withdrawn in light of the above amendments and remarks.

Section 103 Rejections

Claims 1-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Donovan (U.S. Patent No. 6,434,143) in view of Hartley, et al. (U.S. Patent No. 6,463,146). Applicants respectfully traverse this rejection and all assertions, findings, holdings and notices therein.

The Office Action relies on Hartley, et al. to teach "interrupting generation of the real-time packets... upon a call answer... by a party", "resuming generation of the real-time packets... for transmission after a delay... associated with the call answer" and "indicating that the real-time packets generated subsequent to the delay follow the real-time packets... generated prior to the delay in the message by a time amount... less than the delay". Office Action, page 3. Hartley, et al., however, is directed toward call waiting in connection with data connections, not real-time communications. See Hartley, et al., column 2, lines 1-6 ("The present invention provides a method of operating a telecommunications network which not only avoids the disruption of data connections associated with conventional call-waiting services, but also makes the call-waiting functionality available to users while their call to a data service provider is in progress") (emphasis added). Accordingly, Hartley, et al. does not teach "interrupting generation of the real-time packets upon a call answer by a party generating the message", "resuming generation of the real-time packets for transmission of the message toward the voice mail system after a delay associated with the call answer", or "indicating to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by a time amount less than the delay" as recited by Claim 1. For at least these reasons, Claim 1 is, patentable over Donovan and Hartley, et al.

In addition, the combination of Donovan with Hartley, et al. is improper because there is no suggestion or motivation to modify the references. See MPEP 2143 (Basic Requirements of a Prima Facie Case of Obviousness). In particular, there is no support or explanation for the conclusion in the Office Action that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use interrupting generation of the real-time packets, resuming generation of the real-time packets, indicating the real-time packets generated subsequent to the delay of Hartley, et al. in the invention of Donovan. See

MPEP 2143.01 (Suggestion or Motivation to Modify the References) (citing *In Re Fine*, 837 F2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1998). Instead, the Office Action merely concludes that the modification would offer capabilities derived from the teachings of the present invention, which is impermissible hindsight. For this reason also, Applicants respectfully submit that Claim 1 is patentable over the cited art and request that the Examiner allow Claim 1 and its dependent claims.

Independent Claims 16, 31, 46 and 61, as well as their dependent claims, are patentable for analogous reasons. Accordingly, Applicants respectfully request that these claims be allowed.

Regarding Claim 59, there is absolutely no teaching in Donovan that the message described in Donovan and relied on in the Office Action (Office Action, page 16) teaches "logic operable to indicate to a real-time application connected over network that the voice mail system comprises a non-real-time application" as recited by Claim 59. Rather, the message of Donovan is disclosed as "being of video or voice content". Donovan, column 6, line 27. Moreover, Hartley, et al. does not teach logic operable to "store information received from the real-time application in a temporal placement disparate from that in which it was recorded" as recited by Claim 59. Rather, Hartley, et al. as relied on in the Office Action merely teaches maintaining a modem on-line while a data connection is in a suspended state to prevent the PSTN terminating a call when, after a certain period, the terminating party (ISP) remains on-hook. Hartley, et al, column 6, lines 36-40. Thus, in the cited portion of Hartley, et al. there is no storage, much less disparate temperal placement as recited by Claim 59. For these reasons, as well as the improper combination of Donovan with Hartley, et al., Applicants respectully submit that claim 59 is patentable over the cited art and requests allowance of Claim 59.

Regarding Claim 60, Donovan and Hartley, et al. fail to teach or suggest "the RTP packet comprising a time stamp disparate from an original time stamp of payload data" as recited by Claim 60. The timers of Hartley, et al. relied on in the Office Action to teach the time stamp are merely timers used in implementing signaling. Thus, the timers are not a time stamp in a packet, much less a time stamp disparate from an original time stamp. For at least this reason, as well as the improper combination of Donovan with Hartley, et al., Applicants

respectfully submit that Claim 60 is patentable over the cited art and requests that Claim 60 now be allowed.
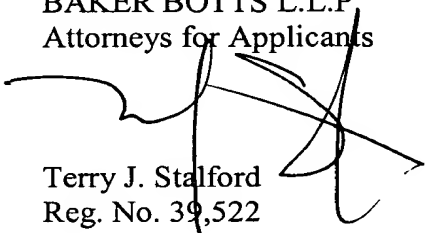
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fees are believed to be due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants

Terry J. Stalford
Reg. No. 39,522

Date: February 14, 2003

CORRESPONDENCE ADDRESS:
Baker Botts L. L. P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980
(214) 953-6477

MARKED-UP VERSION OF SPECIFICATION AND CLAIM AMENDMENTS

For the convenience of the Examiner, all claims have been presented whether or not
an amendment has been made. The Specification and Claims have been amended as follows:

IN THE SPECIFICATION

(Amended) RELATED APPLICATION

This application is related to co-pending U.S. Patent Application Serial No.
[_____] **09/703,385**, entitled Method and System for Real-Time Monitoring of
Voice Mail During Active Call (Attorney's Docket No. [062891.0495] **062891.0494**), filed on
October 31, 2000.

IN THE CLAIMS

1.   A method for call answer while connected to voice mail, comprising:

generating real-time packets for transmission of a message toward a voice mail
system;

interrupting generation of the real-time packets upon a call answer by a party
generating the message;

resuming generation of the real-time packets for transmission of the message toward
the voice mail system after a delay associated with the call answer; and

indicating to the voice mail system that the real-time packets generated subsequent to
the delay follow the real-time packets generated prior to the delay in the message by a time
amount less than the delay.

2.   The method of Claim 1, further comprising transmitting the real-time packets
as they are generated.

3.   **(Amended)** The method of Claim 1, further comprising indicating to the
voice mail system that the real-time packets generated subsequent to the delay **[substantially**

immediately] follow **substantially immediately** the real-time packets generated prior to the delay in the message.

4.   The method of Claim 1, further comprising indicating to the voice mail system that the real-time packets generated subsequent to the delay immediately follow the real-time packets generated prior to the delay in the message.

5.   **(Amended)**   The method of Claim 1, wherein the indication to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by **[a]** the time amount less than the delay comprises an in-band notification.

6.   The method of Claim 5, wherein the in-band notification comprises timing indicators in the real-time packets.

7.   The method of Claim 6, wherein the timing indicators comprise time stamps.

8.   The method of Claim 6, wherein the timing indicators comprise sequence numbers.

9.   The method of Claim 1, wherein the indication to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by the time amount less than the delay comprises an out-of-band signal between a device generating the real-time packets and the voice mail system.

10.   The method of Claim 1, wherein the packets comprise real-time transport protocol (RTP) packets.

11.   (Amended)   The method of Claim 10, wherein the RTP packets each comprise a time stamp and sequence number operable to indicate to the voice mail system that the RTP packets generated subsequent to the delay [substantially immediately] follow **substantially immediately** the RTP packets generated prior to the delay in the message.

12.   The method of Claim 1, further comprising:

storing a value of a timing indicator upon the call answer by the party generating the message; and

generating the real-time packets for transmission of the message after the delay based on the value of the timing indicator.

13.   The method of Claim 12, generating real-time packets for transmission of the message after the delay based on the value of the timing indicator comprising generating a first real-time packet after the delay using the value of the timing indicator and generating each successive real-time packet by incrementing the timing indicator of the previous packet.

14.   The method of Claim 13, generating the first real-time packet after the delay using the value of the timing indicator comprising including the value of the timing indicator in the first real-time packet after the delay.

15.   The method of Claim 1, further comprising periodically transmitting a packet during the delay to prevent an automatic disconnect by the voice mail system.

16.   A system for call answer while connected to voice mail, comprising:

logic encoded in media;

the logic operable to generate real-time packets for transmission of a message toward a voice mail system, to interrupt generation of the real-time packets upon a call answer by a party generating the message, to resume generation of the real-time packets for transmission of the message toward the voice mail system after a delay associated with the call answer and to indicate to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by a time amount less than the delay.

17.   The system of Claim 16, the logic further operable to transmit the real-time packets as they are generated.

18.   **(Amended)**   The system of Claim 16, the logic further operable to indicate to the voice mail system that the real-time packets generated subsequent to the delay **[substantially immediately]** follow_ substantially immediately the real-time packets generated prior to the delay in the message.

19.   The system of Claim 16, the logic further operable to indicate to the voice mail system that the real-time packets generated subsequent to the delay immediately follow the real-time packets generated prior to the delay in the message.

20.   The system of Claim 16, wherein the indication to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by a time amount less than the delay comprises an in-band notification.

21.   The system of Claim 20, wherein the in-band notification comprises timing indicators in the real-time packets.

22.   The system of Claim 21, wherein the timing indicators comprise time stamps.

23.   The system of Claim 21, wherein the timing indicators comprise sequence numbers.

24.   The system of Claim 16, wherein the indication to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by the time amount less than the delay comprises an out-of-band signal between a device generating the real-time packets and the voice mail system.

25.   The system of Claim 16, wherein the packets comprise real-time transport protocol (RTP) packets.

26.   **(Amended)**   The system of Claim 25, wherein the RTP packets each comprise a time stamp and a sequence number operable to indicate to the voice mail system that the RTP packets generated subsequent to the delay [**substantially immediately**] follow **substantially immediately** the RTP packets generated prior to the delay in the message.

27.   The system of Claim 16, the logic further operable to store a value of a timing indicator upon the call answered by the party generating the message and to generate the real-time packets for transmission of the message after the delay based on the value of the timing indicator.

28.   The system of Claim 27, the logic operable to generate real-time packets for transmission of the message after the delay based on the value of the timing indicator by generating a first real-time packet after the delay using the value of the timing indicator and generating each successive real-time packet by incrementing the timing indicator of the previous packet.

29.   The system of Claim 28, the logic operable to generate the first real-time packet after the delay using the value of the timing indicator by including the value of the timing indicator in the first real-time packet after the delay.

30.   The system of Claim 16, logic further operable to periodically transmit a packet during the delay to prevent an automatic disconnect by the voice mail system.

31.   A system for call answer while connected to voice mail, comprising:

means for generating real-time packets for transmission of a message toward a voice mail system;

means for interrupting generation of the real-time packets upon a call answer by a party generating the message;

means for resuming generation of the real-time packets for transmission of the message toward the voice mail system after a delay associated with the call answer; and

means for indicating to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by a time amount less than the delay.

32.   The system of Claim 31, further comprising means for transmitting the real-time packets as they are generated.

33.   **(Amended)** The system of Claim 31, further comprising means for indicating to the voice mail system that the real-time packets generated subsequent to the delay [substantially immediately] follow <u>substantially immediately</u> the real-time packets generated prior to the delay in the message.

34.   The system of Claim 31, further comprising means for indicating to the voice mail system that the real-time packets generated subsequent to the delay immediately follow the real-time packets generated prior to the delay in the message.

35.   The system of Claim 31, wherein the indication to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by a time amount less than the delay comprises an in-band notification.

36.   The system method of Claim 35, wherein the in-band notification comprises timing indicators in the real-time packets.

37.   The system of Claim 35, wherein the timing indicators comprise time stamps.

38.   The system of Claim 35, wherein the timing indicators comprise sequence numbers.

39.   The system of Claim 31, wherein the indication to the voice mail system that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the delay in the message by the time amount less than the delay comprises an out-of-band signal between a device generating the real-time packets and the voice mail system.

40.   The system of Claim 31, wherein the packets comprise real-time transport protocol (RTP) packets.

41.   **(Amended)**   The system of Claim 40, wherein the RTP packets each comprise a time stamp and sequence number operable to indicate to the voice mail system that the RTP packets generated subsequent to the delay [**substantially immediately**] follow **substantially immediately** the RTP packets generated prior to the delay in the message.

42.   The system of Claim 31, further comprising:

means for storing a value of a timing indicator upon the call answer by the party generating the message; and

means for generating the real-time packets for transmission of the message after the delay based on the value of the timing indicator.

43.   The system of Claim 42, the means for generating real-time packets for transmission of the message after the delay based on the value of the timing indicator comprising means for generating a first real-time packet after the delay using the value of the timing indicator and generating each successive real-time packet by incrementing the timing indicator of the previous packet.

44.   The system of Claim 43, the means for generating the first real-time packet after the delay using the value of the timing indicator comprising means for including the value of the timing indicator in the first real-time packet after the delay.

45.   The system of Claim 31, further comprising means for periodically transmitting a packet during the delay to prevent an automatic disconnect by the voice mail system.

46.   A method for interrupting of a real-time connection to a non real-time application, comprising:

generating real-time packets for transmission of an information stream toward a non-real time application;

interrupting generation of the real-time packets upon an intervening event;

resuming generation of the real-time packets for transmission of the information stream toward the non real-time application after a delay associated with the intervening event; and

indicating to the non real-time application that the real-time packets generated subsequent to the delay follow the real-time packets generated prior to the pause in the information stream by a time less than the delay.

47.   The method of Claim 46, further comprising transmitting the real-time packets as they are generated.

48.   **(Amended)**   The method of Claim 46, further comprising indicating to the non real-time application that the real-time packets generated subsequent to the delay **[substantially immediately followed]** <u>follow substantially immediately</u> the real-time packets generated prior to the delay in the information stream.

49.   The method of Claim 46, wherein the indication to the non real-time application that the real-time packets generate subsequent to the delay follow the real-time packets generated prior to the delay in the message by the time amount less than the delay comprises an in-band notification.

50.   The method of Claim 49, wherein the in-band notification comprises timing indicators in the real-time packets.

51.   The method of Claim 46, further comprising:

storing a value of a timing indicator upon the intervening event; and

generating the real-time packets for transmission of the information stream after the delay based on the value of the timing indicator.

52.   The method of Claim 46, further comprising periodically transmitting a packet during the delay to prevent an automatic disconnection by the non real-time application.

53.   The method of Claim 46, wherein the non real-time application comprises an application recording the information stream.

54.   The method of Claim 46, wherein the intervening event comprises an intervening connection.

55.   The method of Claim 46, wherein the information stream comprises an audio stream.

56.   The method of Claim 46, wherein the real-time packets comprise timing indicators indicating to the non real-time application that the real-time packets generated after the delay immediately follow the real-time packets generated prior to the delay in the information stream.

57.   The method of Claim 46, wherein the packets are real-time transport protocol (RTP) packets.

58.   The method of Claim 46, further comprising:

establishing a connection with the non real-time application; and

receiving a notification from the non real-time application that it comprises a non real-time application.

59.   A voice mail system, comprising:

logic encoded on media; and

the logic operable to indicate to a real-time application connected over a network that the voice mail system comprises a non real-time application and to store information received from the real-time application in a temporal placement disparate from that in which it was recorded based on an indication from the real-time application.

60.   A propagated signal, comprising:

a transmission medium; and

a real-time transport protocol (RTP) packet transmitted on the transmission medium toward a non real-time application, the RTP packet comprising a time stamp disparate from an original time stamp of payload data and operable to indicate to the non real-time application a temporal placement in an information stream disparate from an original placement of the payload data in the information stream.

61.   **(Amended)**   A method for call answer while connected to voice mail, comprising:

generating real-time transport protocol (RTP) packets for transmission of a message toward a voice mail system;

interrupting generation of the RTP packets in response to a call answer by a party generating the message;

storing a time stamp value and a sequence number value upon interrupting generation of the RTP packets;

resuming generation of the RTP packets for transmission of the message toward the voice mail system after a delay ending upon resumption by the party of the message; and

upon resumption, generating the RTP packets based on the time stamp value and the sequence number value, the time stamps and sequence numbers of the RTP packets generated after the delay operable to indicate to the voice mail system that the RTP packets [substantially immediately] follow **substantially immediately** the RTP packets generated prior to the call answer in the message.